HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 4610 OF 2006

DATED: 9.3.2006

Between:

Sri Jeeyar Educational Trust

… Petitioner

and

Govt. of A.P. represented by its

Secretary, Revenue Department,

Secretariat, Hyderabad and others

… Respondents

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO.4610 OF 2006

ORAL ORDER:

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The petitioner is an Educational Trust. In Arthamuru Village, Mandapeta Mandal, East Godavari District in Sy.No.381/1, out of an extent of 6 cents of land, 2 cents belong to Sri Uma Sametha Sri Sri Sri Venugopala Swamy and Sri Uma Sametha Sri Sri Sri Agastheshwara Swamy Temples and 4 cents of adjoining property to the Government. In respect of the 2 cents of land, the petitioner represented to the Commissioner of Endowments expressing his willingness to purchase the land for the purposes of the petitioner-Trust. After processing at various lower levels, the Commissioner of Endowments by a communication dated 29.5.2002 recommended to the State Government that as the Trust Board of the Temple had also passed a resolution to that effect, the Government may consider issuance of suitable orders for alienation of 2 cents in favour of the petitioner-Trust, otherwise than by public auction. Thereafter, the petitioner submitted another representation to the Hon'ble Minister for Revenue that the other and adjoining extent of 4 cents of land in Sy.No.381/1 be also alienated in favour of the petitioner-Trust which expressed its willingness to purchase the same at Rs.4,000/- per square yard. The recommendation of the Commissioner in respect of 2 cents of land belonging to the Temple, to the State Government and the petitioner's letter of request for alienation of the other 4 cents of Government land, addressed to the Hon'ble Minister for Revenue are stated to be pending with the respective addressees.

It is the petitioner's complaint now that the 7th respondent-Devasthanam has announced "Silanyasam" of Sri Devi Bhoodevi Sametha Sri Sri Venkateswara Swamy in the village. The petitioner apprehends on the basis of what it claims to be credible information that the installation of the new temple would be on the entire 6 cents site referred to above. In this regard, the petitioner appears to have sensitized

the District Collector, East Godavari, by a representation dated 5.3.2006 and the District Collector is stated to have endorsed on the petitioner's representation instructing the MRO concerned to see that the land is protected by the Gram Panchayat and remove encroachments.

The petitioner's complaint is that the MRO, Mandapeta Mandal, East Godavari District-the 4th respondent is not protecting the land from potential encroachment by the 7th respondent-Temple, despite the instructions of the 2nd respondent-District Collector.

As on date, the petitioner has neither a legal right nor even legitimate expectation in respect of the 6 cents of land in Sy.No.381/1, Arthamuru village, Mandapeta Mandal. What is available is a mere recommendation by the Commissioner of Endowments in respect of 2 cents of land and the petitioner's representation to the Hon'ble Minister for Revenue in respect of the other 4 cents. Neither the Commissioner of Endowments nor the Hon'ble Minister for Revenue appear to *per se* to have a jurisdiction or authority to grant relief to the petitioner or execute any alienation in his favour. The appropriate orders, if any, in this regard have to be passed by the State Government in the appropriate department. No such orders have yet been passed.

If the District Collector, as the Executive Authority in the District, has issued instructions to the MRO to protect and safeguard the lands in question and the MRO concerned has disobeyed the orders of the Collector, it is not within the province of this court to ensure the execution of the District Collector's orders by the MRO. If the District Collector is unable to discipline an MRO over whom the District Collector has disciplinary authority, it is a case of failure of the governance mechanism and the petitioner should approach higher levels of the executive hierarchy. Rejuvenation of the administration in a generic sense is not the province of this court

as the Judicial Branch of the State.

If there is encroachment and if the public authorities who have the obligation to ensure that public property is freed from encroachment, abdicate in their responsibility, perhaps appropriate remedies are available in public law to initiate appropriate public accountability action against such public authorities who have been deviant or delinquent in the performance of public functions. The petitioner's interest in this writ petition is however adversarial and no legal right currently inheres in his favour, justifying grant of any relief.

On the analysis above, the writ petition is dismissed. No order as to costs.

GODA RAGHURAM, J

Date: 9.3.2006

cvm